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EXAMINER

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/757,460	<b>Applicant(s)</b> TAKATAMA ET AL.	
	<b>Examiner</b> Gerardo Araque Jr.	<b>Art Unit</b> 3689	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 19-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 19-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on **June 9, 2009** has been entered.

### ***Specification***

1. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Information Disclosure Statement***

2. The Examiner notes that the applicant has provided **two NPL documents** that were not properly cited in the IDS received on **July 3, 2008**. Specifically, the first NPL document appears to be a Japanese document that has not been translated while the second NPL document is a document provided in English, but is not properly identified to indicate its relevance.

3. The information disclosure statement filed **7/3/08** fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the

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application file, but the information referred to therein has not been considered.

Specifically, JP 2002/509631 has not been provided.

***Claim Rejections - 35 USC § 112, first paragraph***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. **Claims 1 and 19 – 37** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Specifically, the applicant discloses, "a conveyance." The Examiner requests for the applicant to provide specific locations in the specification where this term has been discussed and wherein in the specification does it provide an explanation of what a conveyance is supposed entail (include or exclude) in view of the claimed invention. Is it a person? Is it a Vehicle? Is it a Conveyor Belt? There is no explanation in the specification of the term or any occurrence of this term within the specification.

6. **Claims 1, 19, 23, and 27** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The Examiner is uncertain on how the transfer place is selected. Specifically, the claims disclose that the transfer place is based on being a predetermined distance from a preparation place and the location of the transfer place along an expected path, wherein the expected path is determined by the speed of the conveyance, distance of the conveyance from other transfer places, and the traffic conditions along any probably path, which the Examiner is assuming to be the expected path.

However, the Examiner is uncertain on how the expected path can be determined by speed alone. Has the expected path already been determined and the speed is being used to determine the estimated time of arrival? If so, then why are multiple paths being examined and why does it matter how far the conveyance is from other transfer places? The Examiner believes that speed and, at least, direction are required in order to provide a proper determination of the transfer place.

Moreover, how does traffic play a role in the determination? If the path is based on distance and speed why would traffic matter? In other words, the Examiner believes that the claimed invention is directed to a system and method wherein an expedited service is being provided to a consumer. As a result, if it is uncertain as to why a transfer place that is based on the shortest distance and highest speed is being selected even if traffic conditions are high. Does the claim take into account on the time it will take to get there based on traffic? If so, where does it disclose this?

The Examiner believes that the specification fail to provide sufficient disclosure detailing how all of these parameters are being considered in order to determine the best path towards a selected transfer place. As a result, it is being asserted that one

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skilled in the art would be burdened with undue experimentation in order to determine the best transfer place based on the five disclosed parameters since the claims have failed to set forth any guidelines on specific thresholds that each parameter must meet and in what combination in order to satisfy the best transfer place. For example, is the best path the path with the traffic, but shorter distance and lower speed; or the path with traffic, but a slightly longer distance and moderate speed?

***Claim Rejections - 35 USC § 112, second paragraph***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. **Claims 1 and 27 – 37** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

9. In regards to **claim 1**, the Examiner notes that the applicant has repeated that phrase:

“the transfer place being the location where the merchandise is transferred to an orderer...”

at the beginning of Step D and at the end of Step D.

10. In regards to **claims 27 – 37** the claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

11. **Claims 27 – 37** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. These claims are omnibus type claims.

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In regards to **claims 27 – 37**, the applicant is claiming various “means plus function” language, however, it is uncertain as to what the “means plus function” is directed to.

For example, **Claim 27** discloses at least,

“a position information means for receiving and responding to requests for position information of the conveyance via a mobile network.”

It is asserted that this limitation can be read as the following:

“Position information means”, which appears to be a step wherein position information is being transmitted, acquired, or determined. It is uncertain which of these are being claimed; or

“Means for receiving and responding”: First, is it a means for receiving, a means for responding, or both being claimed. Second, a “means for receiving” is not the same as a “position information means” since a “means for receiving” would not entail a means for determining position information; and a “position information means” would not entail a means for receiving any information since it can be understood as a means for determining, internally, position information, i.e. not receiving information from some outside source.

Again, the **Examiner stresses that this is only one example** out of the provided claims. The Examiner notes that this is the **third** time that this issue has come up and has yet to be remedied and is **resulting in a prolonged prosecution** of the case.

Further still, the Examiner is also uncertain on the function of the preparation place and transfer place (only to name a few). Initially, it was understood that the preparation place is where the order is prepared and that the transfer place is where the order is transferred to the orderer. However, later limitations to the transfer place and

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preparation place appear to claim something different, i.e. acquiring position information (just to name a few).

Are the transfer place and preparation place working together and acquiring position information, are both acquiring position information independently (if so, are they relaying the information to one another), is there a separate system that is acquiring the information and relaying the information to the transfer place and preparation place? Are there multiple systems acquiring this information and is each assigned to the transfer place and preparation place separately? **(See Claims 29 and 30 for example)**

Again, applicant is advised to review **all claims** for grammatical and idiomatic errors.

12. In regards to **claim 27 – 37**, the applicant discloses a plurality of “means plus function” and “function means” limitations that invoke 35 U.S.C. 112, sixth paragraph. However, the written description fails to disclose the corresponding structure, material, or acts for the claimed function.

Specifically, and as mentioned above, it is unclear as to what specific function is (see above regarding “function means plus function”). Moreover, the Examiner also asserts that the claims and specification have failed to set forth the corresponding structure, materials, or acts that are supposed to carryout many of the claimed functions.

For example, a “means for determining a preparation place...” is disclosed in **claim 27**. However, it is uncertain as to whom or what is exactly doing the act of



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determining a preparation place. This is only one example out of many in **newly added claims 27 – 37**.

***Claim Rejections - 35 USC § 101***

13. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

14. **Claims 19 – 22** are rejected under 35 U.S.C. 101. Based on Supreme Court precedent and recent Federal Circuit decisions, the Office's guidance to an examiner is that a § 101 process must (1) be tied to a particular machine or apparatus or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876).

To qualify as a § 101 statutory process, the claim should recite the particular machine or apparatus to which it is tied, for example by identifying the machine or apparatus that accomplishes the method steps, or positively reciting the subject matter that is being transformed, for example by identifying the material that is being changed to a different state.

There are two corollaries to the machine-or-transformation test. First, a mere field-of-use limitation is generally insufficient to render an otherwise ineligible method claim patent-eligible. This means the machine or transformation must impose meaningful limits on the method claim's scope to pass the test. Second, insignificant extra-solution activity will not transform an unpatentable principle into a patentable

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process. This means reciting a specific machine or a particular transformation of a specific article in an insignificant step, such as data gathering or outputting, is not sufficient to pass the test.

Here, applicant's method steps fail the first prong of the new test because the claimed invention fails to set forth a particular machine that is specifically configured/programmed to carry out the claimed invention. Specifically, the Examiner asserts that the current claim language can be interpreted that the user, not a particular machine, is performing the claimed invention. For example, the steps of "acquiring the order, determining a preparation place, determining a transfer place, transmitting

Further, applicant's method steps fail the second prong of the test because there is no transformation of the data. It is asserted that the data has not been transformed into another state or into another object.

The applicant is reminded that:

"Purported transformation or manipulations simply of public or private legal obligations or relationships, business risks, or other such abstractions cannot meet the test because they are not physical objects or substances, and they are not representative of physical objects or substances.

(In re Bernard L. Bilski and Rand A. Warsaw Page 28)"

Moreover, the "transformation must be central to the purpose of the claimed process.

(In re Bernard L. Bilski and Rand A. Warsaw Page 28)"

### ***Claim Rejections - 35 USC § 103***

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. **Claims 1 and 19 – 37** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Hall et al. (US Patent 6,026,375)** in view of **Ikeda et al. (US PGPub 2002/0041240 A1)**.

17. In regards to **claims 1, 19, 23, and 27**, **Hall** discloses a drive through system, method, and medium comprising:

an ordering system mounted on a conveyance on which an order is placed (**see at least Col. 5 Lines 44 - 47**);

an acceptance center system which accepts the order from the ordering system (**Col. 7 Lines 52 - 55**);

a preparation system installed in each of a plurality of preparation places where a merchandise is prepared and stored (**obviously included in drive-thru services, such as McDonald's wherein although it is in one location the one location has several places for preparing specific types of meals and a place for each step in the preparation of the meal; see also at least Col. 2 Lines 49 – 61 wherein each location from the plurality of locations contains a preparation system**); and

a transfer system installed in each of a plurality of a transfer places where the merchandise prepared in a selected preparation place of the plurality of preparation place is transferred to an orderer,;

the systems being connected to one another via a network, and (**obviously included in drive-thru services, such as McDonald's; see also Col. 1 Lines 47 – 49**

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moreover, although it is in one location the one location has several places for transferring specific types of meals and a specific place to transfer the meal depending on whether it is an eat in meal (which contains, for example, a separate cash register for transferring a meal to a customer) or drive thru meal as well as a separate transfer place wherein the meal is transferred from one location to another depending on what step of the preparation the meal is at; see also at least Col. 2 Lines 49 – 61 wherein each location from the plurality of locations contains a transfer system system),

during a period in which an order is pending at least one of the preparation system of the selected preparation place and the transfer system of a selected transfer system periodically acquires position information indicating a present position of the conveyance from the ordering system **(see at least Col. 6 Lines 21 - 24)**.

In regards to the newly amended limitation:

**(Claim 19: determining)** a transfer place of a plurality of transfer places selected based upon the transfer place being a predetermined distance from the preparation place and the transfer place's location along an expected path, the expected path determined by speed of the conveyance, distance of the conveyance from any of the plurality of transfer places and traffic conditions along any of a probable path of the conveyance to the plurality of transfer places, the transfer place being the location where the merchandise is transferred to an orderer;

the Examiner asserts that **Hall** discloses this limitation in at least **Col. 2 Lines 49 – 61**. Specifically, the Examiner asserts that in the broadest reasonable interpretation

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and in view of the claim language that the preparation place and the transfer place are located in the same facility, i.e. same restaurant. **Hall** discloses that a plurality of locations are determined in order to determine which one of the plurality of locations are capable of fulfilling a mobile customer's order based on the customer's location and estimated time of arrival.

**Hall** further discloses that "drive-thru" restaurants are well known in the art, which results in having a transfer place (the window where the customer receives their order) and a preparation place (the location where the order is prepared) being a predetermined distance from one another (wherein the window and preparation area are at a fixed predetermined distance from one another) (**see at least Col. 1 Lines 39 – 40**). What's more, **Hall** also discloses that it is old and well known to have a plurality of drive-thru windows (plurality of transfer places), all of which are a predetermined distance from a preparation area, in a single drive-thru restaurant.

Moreover, **Hall** also discloses that the location of a user and the means in which the pickup location is determined is accomplished by first determining the mobile customer's location, speed, and direction (which the claims do not take into account). Based on the gathered data about the customer, a suitable facility is determined and relayed to the customer.

However, **Hall** does not explicitly disclose that traffic is taken into consideration.

Despite of this, the Examiner asserts that one having ordinary skill in the art of positioning systems, such as GPS, to have found it obvious that if the location is known, the speed of the user using the GPS, and the distance of the user in relation to a

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specific location is known then it can be ascertained that the estimated time of arrival is known as well. However, one of ordinary skill in the art would have also recognized that if the provided estimated time of arrival is longer than what is to be expected then it would have been obvious that traffic may be present on the current expected path. With that said, it is old and well known that through the advancement of GPS devices it has been possible to determine alternate routes in order to arrive at a specific location in order to skip that congested path.

As a result, it would have been obvious to one having ordinary skill in the art at the time of the invention to have also taken traffic into consideration based on the speed, distance, and current location of the user using a GPS device. Given that and in view of the teachings of **Hall** that during the preparation of a mobile customer's order it would have been obvious that traffic must be taken into consideration in determining the most suitable facility of the preparation and transfer of the customer's order in order to provide the best service possible, such as a hot cup of coffee instead of a cold cup of coffee.

Regardless, the Examiner has provided **Ikeda** to disclose this limitation.

**Ikeda** discloses that a status notification system, which includes a GPS and traffic information receiving antenna (**see at least Page 2 - 3 ¶ 35**). **Ikeda** further discloses that the traffic system gathers information relating to traffic congestion status and determines the ETA based on the congestion status (**see at least Page 3 ¶ 39, 41**).

The Examiner asserts that it would have been obvious to one having ordinary skill in the art to look upon the teachings of **Ikeda** and combine the teachings with those of

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**Hall** in order to provide a more accurate means of determining when an orderer is estimated to arrive to pickup an order. Further still, the **combination of Ikeda and Hall** would further provide an effective method of when to prepare an order in order to prevent backups and unnecessarily occupying valuable storage space.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify **Hall** in view of the teachings of **Ikeda** to provide a traffic monitoring system in conjunction with the preparation place/ transfer place in order to provide a more accurate method of determining the ETA of an orderer.

(Claim 27) In regards to **claim 27**, which disclose the additional limitation of:  
a stop means for stopping the acquiring of position information from the position information means, the stopping of the acquiring indicating an order has been transferred to the entity that placed the order;

**Hall** fails to explicitly disclose this limitation.

Despite of this, **Hall** does, however, disclose the function of incorporating a stop command (**see at least Col. 9 Lines 51 - 56**). Although **Hall** does not disclose that the stop command is associated to the order being received by the orderer, it is asserted that it would have been obvious to one having ordinary skill in the art that there is no need to continue monitoring the status of the orderer once the order has been completed and received. The Examiner asserts that it would be common sense to stop the monitoring of the orderer's position since it would consume necessary storage space and resources on the system and would result in high expenses for the use of these resources.

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Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify **Hall** to provide a stop command on the acquisition of the position of the orderer once an order has been completed and received by the orderer in order to prevent unnecessary usage of the system.

20. In regards to **claims 20 and 24**, **Hall** discloses further comprising:

transmitting periodically a request for acquiring the position information to the ordering system to acquire the position information upon receiving the ordering information by a preparation system of a preparation place (**as best understood see at least Col. 6 Lines 21 – 24; see also Col. 7 Lines 52 – 55**); and

transmitting periodically a request for acquiring the position information to the ordering system to acquire the position information upon receiving the ordering information by the transfer system of the transfer place (**as best understood see at least Col. 6 Lines 21 – 24; see also Col. 7 Lines 52 – 55**).

18. In regards to **claims 21 and 25**, **Hall** discloses further comprising:

monitoring a movement path of the entity placing the order based on the acquired position information and transmitting trouble occurrence information indicating that a trouble has occurred in transferring the merchandise to the acceptance center system, when the transfer system recognizes that a distance between the entity placing the order present position and the transfer place where a time when a merchandise transfer is scheduled increases with an elapse of time (**as best understood see at least Col. 8 Lines 1 – 16; Col. 8 – 9 Lines 51 - 56; Col. 10 Lines 6 - 12**).

However, **Hall** fails to disclose:



re-determining a preparation place of the plurality of preparation places and a transfer place of the plurality of transfer places, upon the acceptance center system receiving the trouble occurrence information.

**Ikeda**, however, discloses that a status notification system, which includes a GPS and traffic information receiving antenna (**see at least Page 2 - 3 ¶ 35**). **Ikeda** further discloses that the traffic system gathers information relating to traffic congestion status and determines the ETA based on the congestion status (**see at least Page 3 ¶ 39, 41**).

The Examiner asserts that it would have been obvious to one having ordinary skill in the art to look upon the teachings of **Ikeda** and combine the teachings with those of **Hall** in order to provide a more accurate means of determining when an orderer is estimated to arrive to pickup an order. Further still, the **combination of Ikeda and Hall** would further provide an effective method of when to prepare an order in order to prevent backups and unnecessarily occupying valuable storage space.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify **Hall** in view of the teachings of **Ikeda** to provide a traffic monitoring system in conjunction with the preparation place/ transfer place in order to provide a more accurate method of determining the ETA of an orderer.

19. In regards to **claims 22 and 26**, **Hall** discloses further comprising:

transmitting from a transfer system of a transfer place transfer information to the acceptance center system upon completion of the transfer of the merchandise to the entity placing the order by the transfer system (**obviously included**).

However, **Hall** fails to explicitly disclose:

transmitting a command for stopping the acquiring of the position information to the transfer system and the preparation system upon receiving the transfer information by the acceptance center system.

Despite of this, **Hall** does, however, disclose the function of incorporating a stop command (**see at least Col. 9 Lines 51 - 56**). Although **Hall** does not disclose that the stop command is associated to the order being received by the orderer, it is asserted that it would have been obvious to one having ordinary skill in the art that there is no need to continue monitoring the status of the orderer once the order has been completed and received. The Examiner asserts that it would be common sense to stop the monitoring of the orderer's position since it would consume necessary storage space and resources on the system and would result in high expenses for the use of these resources.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify **Hall** to provide a stop command on the acquisition of the position of the orderer once an order has been completed and received by the orderer in order to prevent unnecessary usage of the system.

20. In regards to **claim 28**, **Hall** discloses wherein the acceptance center system comprises: a preparation place and transfer place position information storage means for storing information of locations of each of the plurality of transfer places and the plurality of one or more pieces of preparation places (**see at least Col. 6 Lines 6 -11**).

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21. In regards to **claim 29 Hall** discloses wherein the preparation system comprises:  
a means for acquiring the position information of the conveyance from the ordering system from the point in time an order is transmitted to the preparation system until a stop command is received (**Col. 6 Lines 21 – 25; Col. 9 Lines 51 – 56**).

22. In regards to **claim 30, Hall** discloses wherein the transfer system comprises:  
a means for periodically acquiring the position information from the ordering system while the order is pending (**Col. 6 Lines 21 – 25; Col. 8 Lines 1 - 16**);

a means for receiving an indication that the order has been transferred to the entity that placed the order; and a means for transmitting information indicating that the order has been transferred to the entity that placed it to the acceptance center system (**see at least Col. 7 Lines 52 – 55; Col. 8 Lines 1 - 16**).

23. In regards to **claim 31, Hall** discloses wherein the transfer system comprises:  
a means for monitoring a movement path of the conveyance based on the position information acquired by the transfer place means for periodically acquiring the position information of the conveyance; a means for determining that a scheduled time for a pick up of the merchandise has increased based upon the acquired position of the conveyance; and a means for transmitting trouble occurrence information indicating that a trouble has occurred in transferring the merchandise to the acceptance center system based upon the increase in the scheduled time for a pick up of the merchandise (**as best understood see at least Col. 8 Lines 1 – 16; Col. 8 – 9 Lines 63 – 4; Col. 9 Lines 51 – 56; Col. 10 Lines 6 - 12**).

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24. In regards to **claim 32**, **Hall** discloses wherein the preparation place and transfer place determination means newly acquires the position information from the ordering system, and extracts the preparation place and the transfer place again, when the acceptance center system receives the trouble occurrence information (**as best understood see at least Col. 8 Lines 1 – 16; Col. 8 – 9 Lines 63 – 4; Col. 9 Lines 51 – 56; Col. 10 Lines 6 - 12**).

25. In regards to **claim 33**, **Hall** discloses a transfer place system which receives position information, as discussed above.

However, **Hall** fail to disclose:

a traffic information management server which is connected to the network to store traffic information of a road, the transfer system comprising:

a means for transferring a request for acquiring the traffic information to the traffic information management server to acquire the traffic information; and

a means for estimating a time at which the conveyance reaches the determined transfer place based on the acquired position information and traffic information.

**Ikeda**, however, discloses that a status notification system, which includes a GPS and traffic information receiving antenna (**see at least Page 2 - 3 ¶ 35**). **Ikeda** further discloses that the traffic system gathers information relating to traffic congestion status and determines the ETA based on the congestion status (**see at least Page 3 ¶ 39, 41**).

The Examiner asserts that it would have bee obvious to one having ordinary skill in the art to look upon the teachings of **Ikeda** and combine the teachings with those of

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**Hall** in order to provide a more accurate means of determining when an orderer is estimated to arrive to pickup an order. Further still, the **combination of Ikeda and Hall** would further provide an effective method of when to prepare an order in order to prevent backups and unnecessarily occupying valuable storage space.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify **Hall** in view of the teachings of **Ikeda** to provide a traffic monitoring system in conjunction with the preparation place/ transfer place in order to provide a more accurate method of determining the ETA of an orderer.

26. In regards to **claim 34**, **Hall** discloses a preparation place system which receives position information, as discussed above.

However, **Hall** fail to disclose:

a means for transmitting a request for acquiring the traffic information to the traffic information management server to acquire the traffic information; and

a preparation place arrival time estimating means for estimating a time at which the conveyance reaches the determined transfer place based on the acquired position information and traffic information.

**Ikeda**, however, discloses that a status notification system, which includes a GPS and traffic information receiving antenna (**see at least Page 2 - 3 ¶ 35**). **Ikeda** further discloses that the traffic system gathers information relating to traffic congestion status and determines the ETA based on the congestion status (**see at least Page 3 ¶ 39, 41**).

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The Examiner asserts that it would have been obvious to one having ordinary skill in the art to look upon the teachings of **Ikeda** and combine the teachings with those of **Hall** in order to provide a more accurate means of determining when an orderer is estimated to arrive to pickup an order. Further still, the **combination of Ikeda and Hall** would further provide an effective method of when to prepare an order in order to prevent backups and unnecessarily occupying valuable storage space.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify **Hall** in view of the teachings of **Ikeda** to provide a traffic monitoring system in conjunction with the preparation place/ transfer place in order to provide a more accurate method of determining the ETA of an orderer.

27. In regards to **claim 35**, **Hall** discloses wherein the ordering system comprises destination information transmission means for transmitting destination information indicating a destination of movement by the conveyance to the acceptance center system **(as best understood see at least Col. 8 Lines 1 - 16; Col. 8 - 9 Lines 63 - 4; Col. 9 Lines 51 - 56; Col. 10 Lines 6 - 12)**,

the acceptance center system comprises a means for estimating a future movement path of the conveyance based on the received position information and destination information upon receiving the position information and destination information from the ordering system **(see at least col. 9 Lines 34 – 50, specifically Lines 43 - 47)**, and

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the preparation place and transfer place determination means extracts the preparation place and the determined transfer place within a predetermined distance from the estimated movement path **(see at least Col. 9 Lines 34 - 50)**.

28. In regards to **claim 36**, Hall discloses wherein the preparation system comprises preparation place operation situation notification means for transmitting information indicating an operation situation of the preparation place to the acceptance center system **(as best understood Col. 9 Lines 34 - 50)**,

the transfer system comprises transfer place operation situation notification means for transmitting information indicating the operation situation of the determined transfer place to the acceptance center system **(as best understood Col. 9 Lines 34 - 50)**, and

the means for determining the preparation place and the transfer place determines the preparation place and the transfer place low in operation ratio based on the operation situation upon receiving the information indicating the operation situations of the determined preparation place and the determined transfer place **(as best understood Col. 9 Lines 34 - 50, see also Col. 9 Lines 19 - 32)**.

29. In regards to **claim 37**, Hall discloses wherein the ordering system comprises permission period input means for inputting a position acquiring permission period indicating a period in which the position information is permitted to be transmitted by the position information processing means **(Col. 6 Lines 21 – 43, wherein the updating of the position is being updated periodically)**, and

the position information transmittance means transmits the position information in the limited position acquiring permission period inputted by the permission period input means (**Col. 5 Lines 21 - 43**).

***Response to Arguments***

30. Applicant's arguments filed **6/9/2009** have been fully considered but they are not persuasive.

**Rejection under 35 USC 112, first and second paragraph**

31. Rejection under 35 USC 112, first paragraph, has been withdrawn due to the provided amendments. However, a new rejection was provided, as discussed above.

32. Rejections under 35 USC 112, second paragraph, toward claims 2 – 18 have been withdrawn due to their cancellation. However, as stated in the applicant's remarks, they have been replaced with claims 27 - 37. Despite of this, however, the Examiner asserts that newly added claims 27 – 37 suffer from similar deficiencies from those of canceled claims 2 – 18, as discussed above.

**Rejection under 35 USC 102 and 103**

33. Rejection under 35 USC 102 has been withdrawn due to amendments. However, a new rejection under 35 USC 103 has been provided.

34. The Examiner asserts that the applicant's argument pertain to the newly amended limitations of the claims. Consequently, the arguments are considered to be moot since they were not previously considered, but have now been addressed above.

35. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies



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(i.e., the preparation place and transfer place are separate) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Specifically, the claims, specifications, and arguments have failed to set forth the specific meets and bounds of what “separate” is supposed to entail. For example, does it mean that the two places do not occupy the same physical space? Does it mean that the places do not occupy the same facility, county, state, country? As a result, the rejections and rationale that were previously provided have been maintained.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerardo Araque Jr. whose telephone number is (571)272-3747. The examiner can normally be reached on Monday - Friday 8:30AM - 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Janice Mooneyham can be reached on (571) 272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/G. A./  
Examiner, Art Unit 3689  
8/26/09

/Dennis Ruhl/  
Primary Examiner, Art Unit 3689